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The Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 500.00)

Complete if Known	
Application Number	09/777,884
Filing Date	February 7, 2001
First Named Inventor	James J. JOHANSON
Examiner Name	Victor D. Lesniewski
Art Unit	2152
Attorney Docket No.	129250-001020/US

METHOD OF PAYMENT (check all that apply)
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FEE CALCULATION**1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee Code	(\\$)	(\\$)
1011	2011	300	150
1012	2012	200	100
1013	2013	200	100
1014	2014	300	150
1005	2005	200	100
SUBTOTAL (1)		(\$ 0)	

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	-20 **	=	Extra Claims 9 prev. paid for	X	Fee from below	Fee Paid
Independent Claims						
Multiple Dependent	-3 **	=	4 prev. paid for	X		0

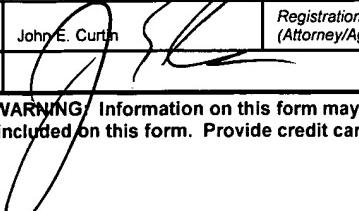
Large Entity	Small Entity	Fee Description
Fee Code	Fee Code	(\\$)
1202	2202	50 25
1201	2201	200 100
1203	2203	360 180
1204	2204	200 100
1205	2205	50 25
SUBTOTAL (2)		(\$ 0)

*or number previously paid, if greater; For Reissues, see above

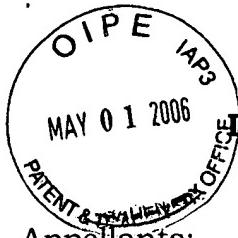
FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500
1403	1,000	2403	500	Request for oral hearing	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q) Submission of Information Disclosure Stmt	
1806	180	1806	180	Recording each patent assignment per property (times number of properties)	
8021	40	8021	40	Filing a submission after final rejection (37 CFR § 1.129(a))	
1809	790	2809	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1810	790	2810	395	Request for Continued Examination (RCE)	
Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid		SUBTOTAL (3)	(\$ 500)		
4. SEARCH/EXAMINATION FEES					
1111	500	2111	250	Utility Search Fee	
1112	100	2112	50	Design Search Fee	
1113	300	2113	150	Plant Search Fee	
1114	500	2114	250	Reissue Search Fee	
1311	200	2311	100	Utility Examination Fee	
1312	130	2312	65	Design Examination Fee	
1313	160	2313	80	Plant Examination Fee	
1314	600	2314	300	Reissue Examination Fee	
SUBTOTAL (4)		(\$ 0)			

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	John E. Curtin	Registration No. (Attorney/Agent)	37,602
Signature		Telephone	(703) 266-3330

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IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants:

James A JOHANSON et al.

Application No.:

09/777,884

Art Unit:

2152

Filed:

February 7, 2001

Examiner:

Victor D. Lesniewski

For:

BLUETOOTH DEVICE POSITION DISPLAY

Attorney Docket No.:

129250-001020/US

APPLICANT'S BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

May 1, 2006

05/02/2006 SZEWDIE1 00000012 09777884

01 FC:1402

500.00 OP

APPELLANT'S BRIEF ON APPEAL
U.S. Application No.: 09/777,884
Atty. Docket: 129250-0001020/US

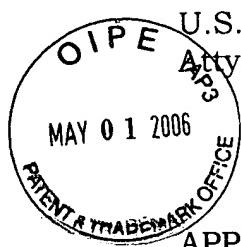
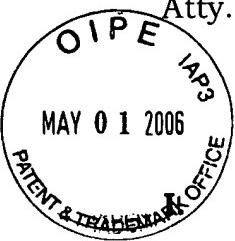


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APPELLANT'S BRIEF ON APPEAL

REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office on February 7, 2001, and recorded at Reel 011565, Frame 0492.

II. RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. EVIDENCE SUBMITTED UNDER CFR 1.130, 1.131, OR 1.132:

None.

IV. DECISIONS RENDERED BY THE COURT OR THE BOARD IN RELATED APPEALS AND INTERFERENCES:

None.

V. STATUS OF CLAIMS:

Claims 3-5, 19 and 30-37 are pending in the application, with claims 19 and 32 being written in independent form.

Claims 3-5, 19 and 30-37 remain finally rejected under 35 U.S.C. §103(a). Claims 3-5, 19 and 30-37 are being appealed.

VI. STATUS OF AMENDMENTS:

A Request for Reconsideration ("Request") was filed on February 3, 2006. In an Advisory Action dated February 24, 2006, the Examiner stated that the Request was considered and Appellant's amendments entered; however, the Request did not place the application in condition for allowance.

VII. SUMMARY OF CLAIMED SUBJECT MATTER:

(i) Overview of the Subject Matter of the Independent Claims.

The present invention mitigates the problems associated with the prior art and provides unique methods and systems for communicating with nearby wireless electronic devices. For example, one method comprises the steps of: transmitting a first Bluetooth signal; detecting a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and then selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

In accordance with embodiments of the present invention, electronic devices such as, for example, computers, laptops, cellular telephones, televisions, VCRs, stereos, pagers, etc. are provided with, or may already have, transceivers. When a user activates the input of a wireless device, a transceiver transmits a low power radio signal requesting GPS coordinates of each electronic device within range of the transceiver. Each device that is within range to receive the signal responds with a signal of its own containing its GPS coordinates. Once the user device receives the GPS coordinates from each electronic device, it displays each device in its respective location. Once the display is shown to the user, the user can select a device based on its location. After the device is selected, communications software that is either incorporated into the present invention or is operated independently can communicate between the user's device and the selected device.

Thus, for example, the present invention allows a user at a meeting to select a laptop to transmit a message to based on the location of the laptop relative to the user. The present invention may also allow a user to

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communicate with someone in a car near the user while on the road. The present invention also allows a user to transmit a message to someone's cell phone just by knowing where that person is relative to the user. (See specification, pp. 2-3)

(ii) Additional Text from the Specification in Support of the Claims.

FIG. 1 (Appendix B) illustrates in block diagram form an electronic device according to an embodiment of the present invention. In accordance with the present invention, a first electronic device 10 communicates with all nearby electronic devices to obtain the GPS location of each device. The first electronic device 10 then displays where each other electronic device is in relation to the first electronic device 10 so the user can select an electronic device to communicate with.

A user electronic device 10, such as, for example, a computer, a laptop, a cellular telephone, a PDA, etc., is provided with a transceiver 12. The transceiver 12 is connected to a controller, for example, a microprocessor 13, and is provided with an antenna 11 for broadcasting and receiving radio signals. The electronic device 10 is also provided with a user input device 15 for selecting which other electronic device to communicate with. The input device 15 may be a keyboard, mouse, keypad, touch screen, etc. The electronic device 10 is also provided with an information storage device and a GPS receiver.

Other electronic devices 20, such as, for example, computers, laptops, printers, scanners, cellular telephones, PDAs, automobiles, pagers, etc., likewise have transceivers 22. The transceiver 22 is connected to a controller,

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for example, a microprocessor 23, and is provided with an antenna 21 for broadcasting and receiving radio signals. The other electronic devices 20 are also provided with GPS receivers 24. (See specification, pp. 4-5)

In accordance with an exemplary embodiment of the present invention, other electronic devices 20 which can communicate with electronic device 10, such as, for example, computers, laptops, cellular telephones, televisions, VCRs, stereos, pagers, etc. are all provided with transceivers and GPS receivers. The manner in which electronic devices operate will now be described with reference to FIGS. 1, 2 and 3. The microprocessor 13 of electronic device 10 controls operations at electronic device 10, as shown in FIG. 2 (Appendix C), it checks if the input device 15 is activated at processing segment 30. If the input device is not activated as detected at processing segment 30, the microprocessor 13 returns to a start state.

If the input device is activated as detected at processing segment 30, the microprocessor 13 transmits a signal requesting the GPS location and device type (e.g. cellular telephone, computer, printer, PDA, etc.) information of all nearby electronic devices at segment 31. The microprocessor 13 then checks if any response signals are received at processing segment 32. If a response signal is received at processing segment 32, the microprocessor stores the GPS location and device type information contained in the response signal in the information storage device 16 in association with identification information for the responding device. The microprocessor 13 then returns to processing segment 32 to check if another response signal is received. (See specification, pp. 5-6)

When no more response signals are received as detected at processing segment 32, the microprocessor 13 queries the GPS receiver 17 at segment 34

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and determines the location of each electronic device 20 that responded relative to the location of electronic device 10 at segment 35. The microprocessor 13 then illustrates each other electronic device 20 as an icon corresponding to the device type of each other electronic device 20 on the display 14 arranged according to their relative locations and altitudes to electronic device 10 at segment 36. If the area displayed is too large, the user can set the maximum distance that an electronic device 20 can be from the user and still be displayed. At this point, the user can select an electronic device 20 to communicate with at processing segment 37, by, for example, keyboard, mouse, touch pad input, touch screen, etc. If the user selects a device to communicate with at processing segment 37, the microprocessor 13 begins a communication routine with the selected device and returns to processing segment 37 so that the user can select another electronic device 20.

If the user does not select a device to communicate with as detected at processing segment 37, the microprocessor 13 checks if the user de-activated the user interface at processing segment 38. If the user input device 15 was not deactivated as detected at processing segment 38, the microprocessor 13 returns to processing segment 31 to transmit a GPS coordinate and device type request signal again so that any additional devices within range can be displayed and the positions of the devices already displayed can be updated. If input device 15 was deactivated at processing segment 38, the microprocessor 13 returns to a start state. (See specification, pp. 6-7)

FIG. 3 (Appendix D) illustrates in flowchart form the processing performed by nearby electronic devices 20. If a GPS location request signal is not received at processing segment 50, the microprocessor 23 returns to a start state. If transceiver 22 receives a GPS location request signal as detected at processing segment 50, the microprocessor 23 queries the GPS receiver 24 at

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segment 51. Transceiver 22 then transmits the GPS location information at segment 52 and returns to a start state.

FIGS. 4 and 5 (Appendices E and F) illustrate in flowchart form a modification of how a device position display can operate. In this modification, instead of querying the nearby electronic devices 20 regularly to obtain the location of the nearby electronic devices 20, the nearby electronic devices transmit their location when entering a pico-net. The difference between FIG. 4 and FIG. 2 is the addition of processing segment 41 and segment 42. The difference between FIG. 5 and FIG. 3 is that segment 50 is changed to segment 60 so that the GPS coordinates will be transmitted when a pico-net is joined instead of when a GPS location request signal is received.

As illustrated in FIG. 4, when the input device 15 is not deactivated as detected at processing segment 38, microprocessor 13 checks if a GPS signal is received at processing segment 41. If a GPS signal is received as detected at processing segment 41, microprocessor 13 stores the information from the GPS signal in information storage device 16 at segment 42 and returns to processing segment 41 to check if additional GPS signals were received. If a GPS signal is not received as detected at processing segment 41, microprocessor 13 returns to segment 35 to adjust the display 14 to include any additional devices. (See specification, pp. 7-8)

In order to standardize the system for various products from different manufacturers, a protocol must be established. One such protocol is known as Bluetooth.TM.. Bluetooth.TM. is a radio frequency standard that describes how portable electronic devices, such as, for example, wireless telephones, PDAs, and personal computers, can easily interconnect with each other and with home and business phones and computers using a short-range wireless

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connection. The Bluetooth.TM. specification ensures that diverse devices supporting the Bluetooth.TM. technology can communicate with each other worldwide. The Bluetooth.TM. protocol allows for the automatic connections between the devices without any user intervention. Thus, when Bluetooth.TM. equipped devices come within range of one another, such as, for example, when an electronic device 10 is within range of other electronic devices 20, the devices can communicate with each other via a radio frequency.

While the Bluetooth.TM. protocol can be used with the present invention, the communications do not have to be by the Bluetooth.TM. protocol, and other standardized or proprietary protocols may also be used. Although the invention has been described with reference to using GPS coordinates to determine each electronic device's location, this is not required and an electronic device can use triangulation to determine the other electronic devices' location relative to itself. (See specification, pp. 8-9)

VIII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the rejections of claims 3-5, 19 and 30-37 based on 35 U.S.C. §103(a)

IX. ARGUMENTS:

A.) The Claims are Patentable Over the Combination of Bork and Fumarolo

In the Final Office Action, the Examiner repeated his rejection of claims 3-5, 19 and 30-37 under 35 U.S.C. §103(a) as being unpatentable over Fumarolo et al., U.S. Patent No. 6,204,844 ("Fumarolo") in view of Bork et al., U.S. Patent No. 6,246,376 ("Bork"). Appellants disagree and respectfully request that the Board reverse the decision(s) of the Examiner for at least the following reasons.

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Each of the claims of the present invention includes the features of: (a) the transmission of a first Bluetooth signal; (b) the detection of a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and (c) the selection of a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

As the Appellants presently understand the §103 rejections, the Examiner is relying on Fumarolo for all the features of the claims except the disclosure of a Bluetooth signal. The Examiner relies on Bork for the disclosure of a Bluetooth signal.

Appellants note, however, that Fumarolo does not disclose features (a)-(c) set forth above. For example, though the Examiner states that Fumarolo "clearly shows the selection of a device to communicate with" (see page 3 of the Final Office Action, line 6), Appellants disagree. Fumarolo does not select any particular device to communicate with. Instead, Fumarolo discloses the grouping of devices into "talk groups". Said another way, the selection in Fumarolo is not of a nearby device, but of a talk group. Fumarolo's talk groups do not equate to, and are not suggestive of, the claimed nearby devices of the present invention.

In addition, Fumaralo makes a selection in order to group communication units together so that they may communicate with one another in the future in order "to handle an incident (e.g., accident) displayed on [an associated] map" (see Fumarolo column 14, lines 5-10). Thus, the selection of a talk group in Fumarolo is based on whether the communication units in the group desire to handle an incident, regardless of their location, GPS coordinates or whether they are nearby. Fumarolo's use of GPS information is to locate the device, not to select a nearby device to communicate with.

Bork does nothing to make up for the deficiencies of Fumarolo.

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Accordingly, Appellants respectfully submit that the subject matter of claims 3-5, 19 and 30-37 would not have been obvious to one of ordinary skill in the art at the time the application was filed upon reading the combination of Fumarolo and Bork.

Appellants respectfully request that the members of the Board reverse the decision of the Examiner, withdraw the rejections and allow claims 3-5, 19 and 30-37.

B.) The Combination of Fumarolo and Bork is Improper

In the Final Office Action (and substantively repeated in the Advisory Action), the Examiner takes the position that the combination of Fumarolo and Bork is proper because: (1) “one of ordinary skill in the art at the time the Applicants invention working through Fumarolo’s system would clearly have had knowledge of Bork’s system since Bork’s system is a similar communications network that also utilizes a mobile communication unit to provide an indication of a location of a second unit”; and (2) “since GPS data concerning other devices can be sent to a communication unit in Funarolo’s system, one of ordinary skill in the art would have thought it obvious to use alternative’s methods of transferring GPS data to a communication unit such as via Bluetooth as presented by Bork”. Appellants respectfully disagree.

One of ordinary skill in the art would realize that the particular Bluetooth based system in Bork could not be used in the system of Fumarolo because such a Bluetooth system would most likely not have the distance or range needed to carry out the principle of operation of Fumarolo.

Accordingly, Appellants respectfully submit that the combination of Fumarolo and Bork is improper for these reasons and for the reasons set forth in the Applicants’ previous responses.

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X. CONCLUSION:

Appellants respectfully request that the members of the Board reverse the Examiner's rejection of claims 3-5, 19 and 30-37 and allow these claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

XI. EVIDENCE APPENDIX

None.

XII. RELATED PROCEEDINGS APPENDIX

None.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By:

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APPENDIX A
CLAIMS APPENDIX

1. (Cancelled)

2. (Cancelled)

3. (Previously Presented) The method as in claim 30 further comprising displaying only those nearby devices within a certain.

4. (Previously Presented) The method as in claim 19, wherein each of said second signals includes the type of nearby device.

5. (Previously Presented) The method as in claim 4 further comprising the step of displaying the type of nearby device associated with each received second signal.

6.-18.(Cancelled)

19. (Previously Presented) A method for selecting nearby devices to communicate with, comprising the steps of:

transmitting a first Bluetooth signal;

detecting a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

20.-29. (Cancelled)

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30. (Previously Presented) The method as in claim 19 further comprising the step of:

displaying the location of each nearby device associated with received GPS coordinates; and

selecting the nearby device to communicate with based on the displayed locations.

31. (Previously Presented) The method as in claim 30 further comprising selecting a nearby device associated with a shortest location.

32. (Previously Presented) A device for selecting nearby devices to communicate with operable to:

transmit a first Bluetooth signal;

detect a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

33. (Previously Presented) The device as in claim 32 further operable to:

display the location of each nearby device associated with received GPS coordinates; and

select the nearby device to communicate with based on the displayed locations.

34. (Previously Presented) The device as in claim 33 further operable to select a nearby device associated with a shortest location.

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35. (Previously Presented) The device as in claim 33 further operable to display only those nearby devices within a certain range.

36. (Previously Presented) The device as in claim 32, wherein each of said second signals includes the type of nearby device.

37. (Previously Presented) The device as in claim 36 further operable to display the type of each nearby device associated with each received second signal.



FIG. 1
APPDX. B

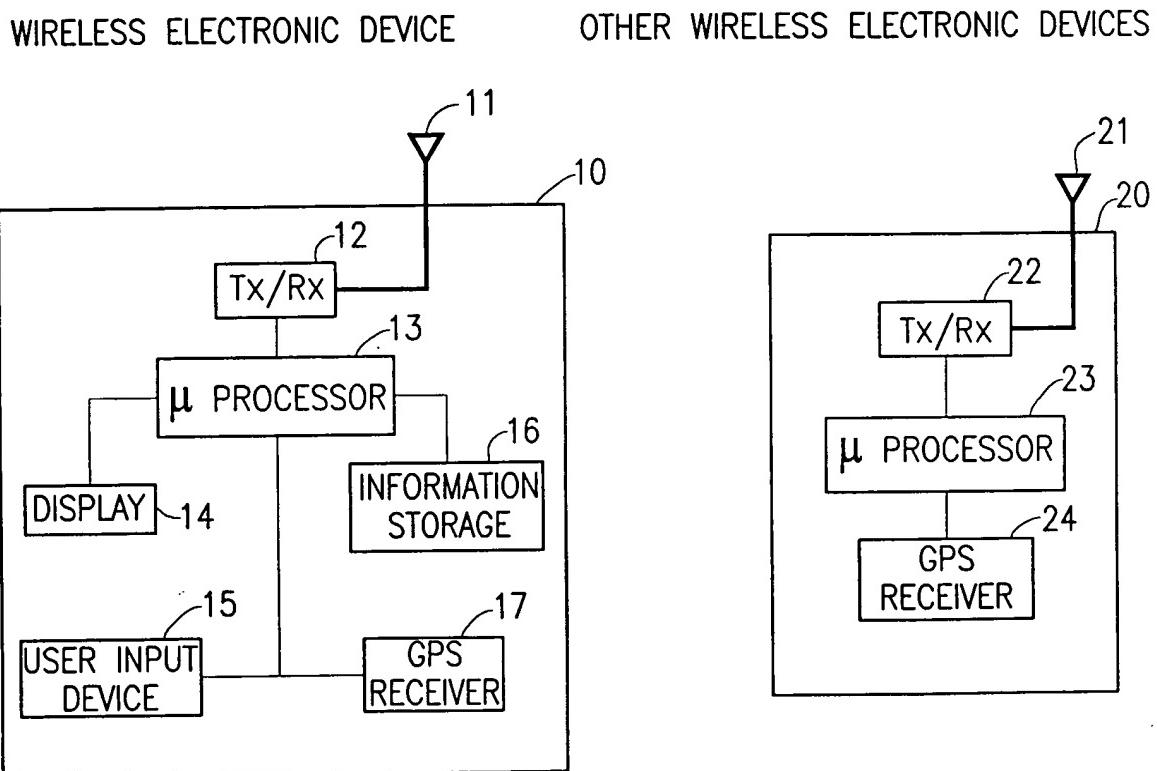


FIG. 2
APPDX. C

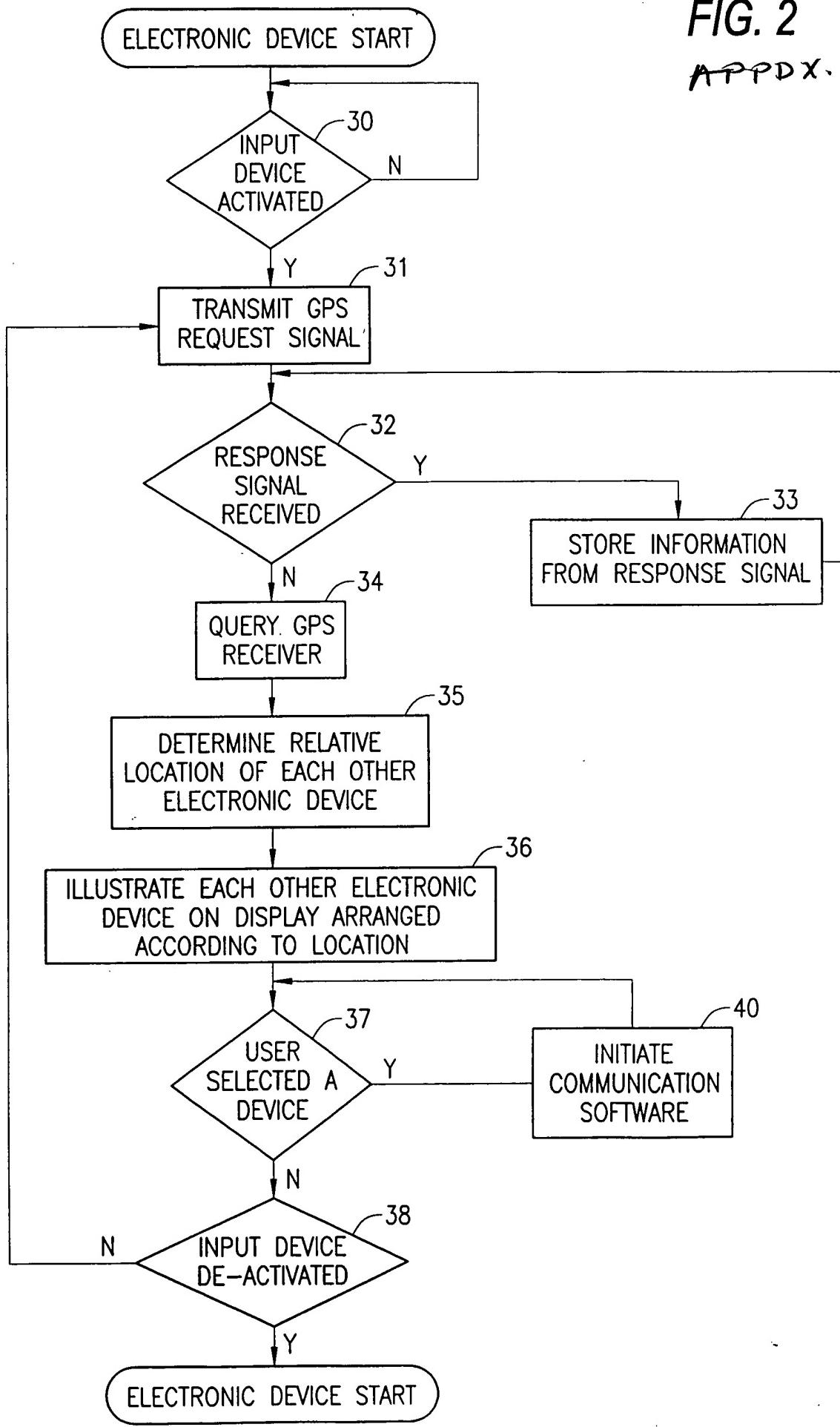


FIG. 3
APPDX. D

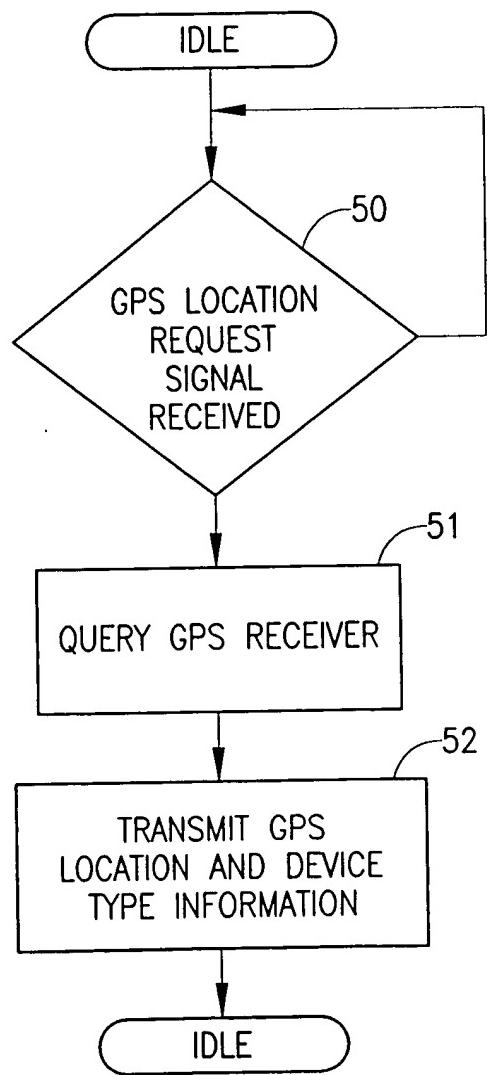


FIG. 4
APPDX. E

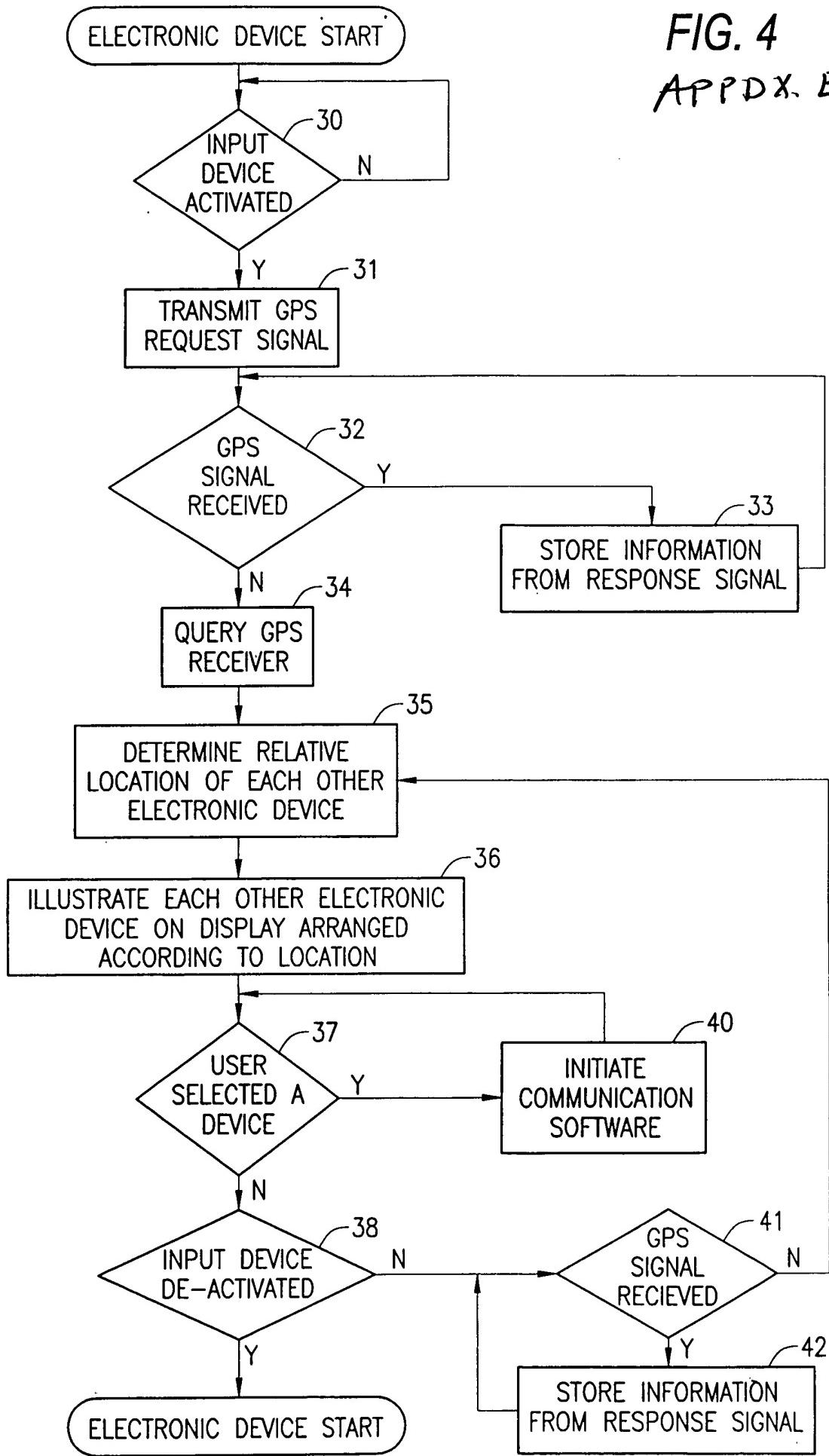


FIG. 5
APPDX. F

